

- C. The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- D. In exercising the above-mentioned powers such as Board may, in conformity with Md. Ann. Code, Art. 66B, as amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- E. Appeals from decisions of the Board of Appeals shall be to the Circuit of Frederick County in accordance with the Maryland Rules.

(Ord. 423)

## **ARTICLE 25: AMENDMENTS**

### **25.1 General:**

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Mayor and Council may by Ordinance, after recommendation by the Planning Commission and subject to the procedure set forth in this Article, amend or supplement the regulations, zoning district boundaries, or Master Plan classifications of property now or hereafter established by this Ordinance or amendments thereto. Such amendments, or supplements, may be initiated by resolution of the Mayor and Council, by motion of the Planning Commission, or by petition of any property owner.

The Mayor and Council hereby expresses recognition of the fact that sections of Brunswick are rapidly changing from a rural area to residential, commercial, industrial, and other urban uses, and although an attempt has been made in the official Master Plan to anticipate and direct such growth along desirable lines, it is inevitable that no such plan can be perfect or everlastingly valid. The Mayor and Council therefore anticipate that the Master Plan will require modification from time to time as contemplated and authorized by Article 66B, and that the Zoning Map must also be amended from time to time, in order that it may continue to be in conformity with the Master Plan as required by Article 66B.

### **25.2 Amendment Procedure:**

Any proposed amendments or supplements originating with or received by the Mayor and Council shall first be referred to the Planning Commission for consideration and recommendation. The Planning Commission shall research the issue, and may require the submission of pertinent information by the Applicant, and may hold public hearings in accordance with the Planning Commission By-Laws. The Planning Commission shall then submit its report and recommendation

to the Mayor and Council within sixty (60) days of the referral, unless an extension of time is granted by the Mayor and Council.

After receiving the recommendation of the Planning Commission on any proposed amendment, or supplement, and before adopting an amendment, the Mayor and Council shall hold a public hearing in relation thereto, at which interested parties and citizens shall have an opportunity to be heard. Notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction, or boundary, shall be published in at least one (1) newspaper of general circulation in Brunswick once each week for two (2) successive weeks with the first such publication of notice appearing at least fourteen (14) days prior to the hearing.

A regulation, restriction or boundary may not become effective until ten (10) days after the public hearing.

Where the purpose and effect of the proposed amendment is to change the zoning classification for a particular property or group of properties, the Mayor and Council shall make findings of fact in each specific case including, but not limited to, the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendation of the Planning Commission, and the relationship of such proposed amendment to the Master Plan; and may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. A complete record of the hearing and the votes of all members of the Mayor and Council shall be kept.

Where the purpose and effect of the proposed amendment is the result of a comprehensive review and update of the zoning map, the Mayor and Council shall make findings of fact in each specific case for only those properties in which a particular zoning classification is requested by the property owner, whether in response to the Planning Commission's recommendation or in addition to it. The Mayor and Council shall take into consideration the Planning Commission's recommendation as well as the property owner comments and requests in its review of the proposed amendment. All other proposed zoning map amendments which result from the Planning Commission's recommended comprehensive review and update require a general review by the Mayor and Council.

The Mayor and Council shall make no change in or departure from the proposed amendment as recommended by the Planning Commission unless the issue is resubmitted to the Planning Commission for its further recommendations. No amendment or supplement shall be adopted contrary to the recommendations of the Planning Commission except by a two-thirds (2/3) majority vote of the Mayor and Council.

An application for a reclassification or rezoning shall not be accepted by the Mayor and Council if it is for the reclassification or rezoning of the whole or any part of land the reclassification or rezoning of which has been denied by the Mayor and Council within one (1) year from the date of the local legislative body's denial.

Rezoned or reclassified properties (with the exception of those rezoned or reclassified as the result of a comprehensive rezoning) shall automatically revert to their prior zoning designation or classification three (3) years after the effective date of the rezoning or reclassification unless:

- A. a preliminary or final subdivision plan has been approved and at least ten percent (10%) of the lots have been recorded; or
- B. site plan approval has been obtained and construction of approved buildings or structures has begun. See Article 4 for the definition of “start of construction”.

Properties rezoned or reclassified for agricultural use and those properties in which subsequent comprehensive zoning actions have resulted in no change to the zoning of the property will not revert to the original zoning designation or classification.

### **25.3 Fee:**

A fee established by the Mayor and Council shall be charged for processing an application for a change in zoning or a reclassification. (Amended Ord. 03-07)

### **25.4 Saving Clause:**

If an article, section, sub-section, clause, or phrase of this Ordinance is for any reason held unconstitutional or void, such decision shall not invalidate the remaining portions of the Ordinance.